

# **Exhibit B**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

ALBERTO RAMOS,

Plaintiff,

v.

PALM WEST CORPORATION,  
PALM WEST CORPORATION D/B/A “THE  
PALM”,  
LANDRY'S SEAFOOD HOUSE - NORTH  
CAROLINA, INC.,  
RICHARD HAMMILL, Individually  
and CRAIG LEVY, Individually

Defendants.

Civil Action No.: \_\_\_\_\_

**NOTICE OF REMOVAL**

TO: THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

Pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, Defendants Palm West Corporation d/b/a the Palm West<sup>1</sup> and Tyron & Stonewall Restaurant, Inc. f/k/a Landry’s Seafood House – North Carolina, Inc.<sup>2</sup> (“Corporate Defendants”)<sup>3</sup> hereby remove the above-captioned action from the Supreme Court of the State of New York, County of Bronx to the United States District Court for the Southern District of New York, and in support thereof state as follows:

**I. PROCEDURAL HISTORY**

1. On or about May 27, 2023, Plaintiff Alberto Ramos (“Plaintiff”) filed a Summons with Notice against Served Defendants, Richard Hammel and Craig Levy in the Supreme Court of

<sup>1</sup> Incorrectly pled as Palm West Corporation d/b/a “The Palm.”

<sup>2</sup> Incorrectly pled as Landry’s Seafood House – North Carolina, Inc.

<sup>3</sup> As discussed *infra*, as of the filing of this submission neither Richard Hammel (incorrectly pled as Hammill) nor Craig Levy have been served with the Summons with Notice.

the State of New York, County of Bronx, under Index No. 808303/2023E, which was signed by Plaintiff's counsel. A copy of the Summons with Notice is annexed hereto as **Exhibit A**.

2. On September 27, 2023, through the Secretary of State of the State of New York, Plaintiff purportedly served Corporate Defendants, with the Summons with Notice. Copies of the Affidavits of Service are annexed hereto as **Exhibit B**.

3. As of the date of this submission, neither Richard Hammel nor Craig Levy have been served with the Summons with Notice.

## **II. FEDERAL QUESTION JURISDICTION**

4. Removal is proper under 28 U.S.C. §§ 1441(a) and 1331 because, as pled in the Summons with Notice, Plaintiff alleges that Defendants discriminated against Plaintiff in violation of Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. § 2000e et. seq. ("Title VII"). As Title VII is a federal statute, this Court has original jurisdiction over this action based on federal question.

5. In addition to Plaintiff's claims under Title VII, Plaintiff purports to allege claims arising under the New York State Human Rights Law and New York City Human Rights Law. This Court has supplemental jurisdiction over these causes of action pursuant to 28 U.S.C. § 1367(a).

## **III. THE PROCEDURAL REQUIREMENTS HAVE BEEN SATISFIED**

6. All defendants who have been served with the Summons with Notice consent to the removal of this action. 28 U.S.C. § 1446(b)(1).

7. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal has been timely filed within thirty (30) days after Served Defendants initially received notice of the lawsuit commenced in state court.

8. The state court action was commenced in the Supreme Court of the State of New York, County of Bronx. Therefore, venue is proper in this Court because it is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

#### **IV. NOTICE TO PLAINTIFF AND THE STATE COURT**

9. Contemporaneously with the filing of this Notice of Removal, and pursuant to 28 U.S.C. § 1446(d), written notice of this filing and any attendant supplementary papers required by this Court will be provided to Plaintiff, and a copy of the Notice of Removal will be filed with the Clerk of the State Court.

#### **V. NO WAIVER OF CLAIMS OR DEFENSES**

10. By removing this matter, Corporate Defendants do not waive or intend to waive any available claims or defenses.

11. Furthermore, by removing this action from the Supreme Court of the State of New York, County of Bronx, Corporate Defendants do not admit any of the allegations asserted in the Summons with Notice.

**WHEREFORE**, pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, Corporate Defendants respectfully request that this Honorable Court take jurisdiction of this action and issue all necessary orders and process to remove said action from the Supreme Court of the State of New York, County of Bronx, to the United States District Court for the Southern District of New York. In the event this Court has a question regarding the propriety of this Notice of Removal, Corporate Defendants request the opportunity to submit evidence, points, and authorities further supporting the removal of this action.

[signature page follows]

Dated: October 27, 2023  
New York, New York

Respectfully submitted,

By: /s/ Glenn S. Grindlinger

Glenn S. Grindlinger

Devin S. Cohen

**FOX ROTHSCHILD LLP**

101 Park Avenue, 17th Floor

New York NY 10178

Telephone: (212) 878-905-2305

Facsimile: (212) 692-0940

[ggrindlinger@foxrothschild.com](mailto:ggrindlinger@foxrothschild.com)

[dscohen@foxrothschild.com](mailto:dscohen@foxrothschild.com)

*Attorneys for Defendants*

*Palm West Corporation d/b/a the Palm West and  
Tyron & Stonewall Restaurant, Inc. f/k/a Landry's  
Seafood House – North Carolina, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this date I caused a copy of Served Defendants' Notice of Removal to be served upon the parties named below:

***Via Pacer***

**Ruby J. Krajick**, Clerk  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, New York 10007

***Via Pacer, First Class Mail, and email***

DEREK SMITH LAW GROUP, PLLC  
Melissa Mendoza, Esq  
One Penn Plaza, Suite 4905  
New York, NY 10119  
melissa@dereksmithlaw.com  
*Attorneys for Plaintiff*

Dated: October 27, 2023

/s/ Glenn S. Grindlinger  
Glenn S. Grindlinger

# EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
ALBERTO RAMOS,

Plaintiff,

-against-

PALM WEST CORPORATION, PALM WEST  
CORPORATION D/B/A "THE PALM",  
LANDRY'S SEAFOOD HOUSE - NORTH CAROLINA, INC.,  
RICHARD HAMMILL, Individually,  
and CRAIG LEVY, Individually,

Defendants.  
-----X

Index No.

Plaintiff Designates  
BRONX COUNTY  
As the Place of Trial

**SUMMONS WITH NOTICE**

**TO THE ABOVE-NAMED DEFENDANTS:**

**PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED** to serve upon Plaintiff's attorneys, DEREK SMITH LAW GROUP, PLLC, at the address stated below, a notice of appearance or demand for a complaint within 20 days after the service of this Summons, exclusive of the day of service, or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York; and

**YOU ARE HEREBY NOTIFIED THAT** should you fail to serve a notice of appearance or demand for a complaint, a judgment will be entered against you by default for the relief demanded herein.

**NOTICE**

The nature of this action arises from violations of *inter alia*, Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. § 2000e et. Seq. ("Title VII"), New York Executive Law, § 290, et seq. ("NYHRL"), the Administrative Code of the City of New York 8-107 et seq. ("NYCHRL"); the common laws of the State of New York and any and all other causes of action which are alleged and/or can be inferred from the facts set forth to redress the injuries Plaintiff has suffered as a result of, *inter alia*, age discrimination, national origin discrimination, race discrimination, hostile work environment, retaliation, and unlawful termination.

The relief sought is an amount to be determined at trial, and is an amount which exceeds the jurisdiction of all lower courts, and such other and further relief as this Court deems necessary and proper.


Should Defendants fail to appear herein or demand a complaint, judgment will be entered by default for the relief demanded above, with interest, and the costs of this action.



Plaintiff designates Bronx County as the place of trial. The basis of this designation is: Plaintiff was and is a resident of Bronx County.

Dated: May 27, 2023  
New York, New York

DEREK SMITH LAW GROUP, PLLC



Melissa Mendoza, Esq.

*Attorneys for Plaintiff*

1 Pennsylvania Plaza, Ste 4905  
New York, New York 10119  
(332) 910-5677

TO:

PALM WEST CORPORATION

\*\*REGISTERED AGENT VIA SECRETARY OF STATE\*\*

PALM WEST CORPORATION D/B/A "THE PALM"

\*\*REGISTERED AGENT VIA SECRETARY OF STATE\*\*

LANDRY'S SEAFOOD HOUSE - NORTH CAROLINA, INC.,

\*\*REGISTERED AGENT VIA SECRETARY OF STATE\*\*

RICHARD HAMMILL

\*\*\*VIA PLACE OF EMPLOYMENT\*\*\*

CRAIG LEVY

\*\*\*VIA PLACE OF EMPLOYMENT\*\*\*

# EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

P20025031

## AFFIDAVIT OF SERVICE

Index no : 808303/2023E  
Date Index Number Purchased: 05/27/2023

Plaintiff(s):	ALBERTO RAMOS
Defendant(s):	PALM WEST CORPORATION, ET AL

STATE OF NEW YORK  
COUNTY OF ALBANY

ss.:

**Kerry Gunner**, being duly sworn, deposes and says: that the deponent is not a party to this action, is over 18 years of age and resides in the State of New York.

That on **09/27/2023** at **9:16 AM**, at the office of the Secretary of State of the State of New York in the City of Albany, NY, deponent served the within **SUMMONS WITH NOTICE** upon **LANDRY'S SEAFOOD HOUSE - NORTH CAROLINA, INC.** at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

Defendant/respondent in this action by delivering and leaving with **COLLEEN BANAHAN**, authorized agent in the office of the Secretary of State of the State of New York, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231-0001, two (2) true copies thereof and that at the time of making such service, deponent paid said Secretary of State a fee of \$40.00. That said service was made pursuant to Section **306 of the Business Corporation Law**.

Deponent further says that the person so served was known as aforesaid to be an authorized agent in the office of the Secretary of State of the State of New York duly authorized to accept such service on the behalf of said defendant/respondent.

Deponent further states that the person actually served is described as follows :

Sex	Color of skin/race	Color of hair	Age	Height	Weight
Female	White	Brown	28-35	5Ft3In-5Ft5In	200-220 lbs
Other Features:					

Documents were properly endorsed with index number and date of filing.

Sworn to and subscribed before me on 09/27/2023

Notary Public

*[Signature]*  
Victoria Nelson  
Notary Public, State of NY  
No. 01NE6376548  
Qualified in Albany County  
Commission expires 06/11/2026

[ ] Kerry Gunner  
Notary Public, State of NY  
No. 01GU5038710  
Qualified in Albany County  
Commission expires 02/06/2027

X  
Kerry Gunner  
Lexitas  
1235 Broadway, 2nd Floor  
New York, NY 10001  
212-233-4040  
20025031  
20025031



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

P20025023

## AFFIDAVIT OF SERVICE

Index no : 808303/2023E  
Date Index Number Purchased: 05/27/2023

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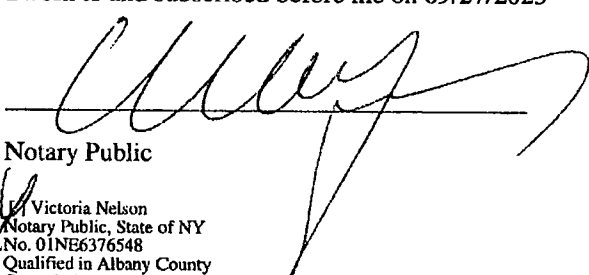
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20025023  
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

P20025015

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